

STAFF REPORT

November 25, 2003

Discussion and Direction Regarding Proposed Amendments to Chapter 25, Belmont Municipal Code, Trees

Mayor and City Council of the City of Belmont
Belmont CA

Honorable Mayor and Council members:

Summary

Pursuant to City Council instruction, staff has gathered information for City Council's consideration in amending the City's tree ordinance, Chapter 25, Trees. It is staff's understanding that the purpose of this proposed amendment is to create ordinance provisions requiring payment of a protected tree removal fee into a designated account when removal is approved to facilitate development of property. Staff presents for discussion and direction, language requiring applicants to obtain an appraisal of the protected trees proposed for removal, that the tree removal fee be equal to that appraised value and funds generated be directed to a specific tree fund.

Background and Discussion

Earlier this fall, the City Council asked staff to develop proposed ordinance language requiring payment of fees when a protected tree is authorized for removal to facilitate development. In researching this issue, the City Attorney has reviewed the municipal codes of 17 cities throughout California (Pleasanton, Laguna Beach, Palo Alto, Campbell, Tiburon, Calabasas, Mountain View, Danville, San Carlos, Atherton, Los Altos, Redwood City, Hillsborough, Burlingame, San Mateo, Menlo Park and Los Gatos). The purpose of this review was to determine whether other cities had provisions in their tree ordinances specific to tree removal to accommodate development of property. If so, to further determine what each city

required in order to issue tree removal permits and how each city implemented the ordinance's provisions.

In reviewing these ordinances, staff found that cities have a variety of review processes and “mitigation” measures required when protected trees are proposed for removal; whether or not the removal is prompted by development of the property. For the Council's information, this report contains a summary of the various ways in which these 17 cities approach protected tree removal. Staff is of the opinion that Pleasanton utilizes a process which meets the City Council's stated objectives, but which may need certain modifications based on direction from the City Council.

Proposed Ordinance Provisions

The Pleasanton ordinance contains the following provisions for tree removal associated with development:

1. When proposing to develop property, the owner is required to submit an application for a tree removal permit.

Question for City Council: Should there be a requirement to submit an application to also address protected trees slated for removal when there is no development application?

2. The tree removal application must include the following:

A. A tree survey plan identifying all trees which would be affected by the new development.

B. A report by the applicant's certified arborist regarding the affected trees including an appraisal of the condition and replacement value of these trees.

Question for City Council: If a tree survey is required, should it show all affected trees or just affected protected trees?

3. Once the report is received, a staff review process is initiated. This includes:

A. A site inspection by City staff.

B. Preparation of a written report/recommendation regarding the proposed removal.

Question for City Council: Who is the most appropriate staff member to review the arborist's report? The City arborist, the Parks and Recreation Director or someone else?

4. The City reviews the application and staff recommendation, in conjunction with the development application, to determine what trees are to be preserved and what trees are to be removed.

Question for City Council: What body should review the staff recommendation; the Planning Commission, City Council or some other body?

5. In reviewing the tree removal application, the City takes into consideration the property's unique characteristics and associated developmental impacts to determine if tree preservation would "preclude feasible development."

Question for City Council: Is this type of review standard an appropriate approach for Belmont or should the ordinance be drafted to allow removal in all instances provided the applicant is required to pay a protected tree removal fee?

6. Based upon the City's evaluation of the report and recommendation, the application is approved/denied as part of the final site or landscape plans. If approved, the tree removal permit indicates what protected trees are to be removed and calls out protection measures for other trees which are to be preserved.

Question for City Council: Should the final site or landscape plan also be required to include protection measures for remaining protected trees and/or other trees affected by the development?

7. For protected trees authorized for removal, the developer pays a fee in the amount equal to the appraised value of the removed protected tree.

Question for City Council: Should the removal fee be set based on a schedule prepared by the City which takes into account the size/age and condition of the tree or upon the applicant's certified arborist appraisal?

Other Ordinances Containing Provisions for Tree Removal in Conjunction with Development

If the Pleasanton's model is not appropriate, the following are requirements for processing tree removal applications occasioned by development in a number of other cities.

Laguna Beach: A heritage tree owner who proposes new construction within 15 feet of the trunk of a heritage tree must apply for a permit and indicate the way in which the heritage tree will be maintained during and following construction.

A heritage tree owner desiring to remove a heritage tree must apply to the city council for approval. Notices of the hearing are sent to property owners within 300 feet of the applicant's

property.

The City Attorney's office has made an inquiry about the cost of the permit, but we have not heard back from the city. We will be following up until the date of the meeting and if an answer is provided, we will direct that information to the Council at the meeting.

Palo Alto: For development on a single-family residential lot:

- Protected trees are not to be removed unless the trunk or basal flare of the protected tree is touching or within the building footprint.

- If removal is allowed because the tree trunk is located in the building footprint, the tree removed must be replaced.

- In connection with a proposed subdivision of land into two or more parcels, protected trees are not to be removed unless removal is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard. The tree removed must be replaced.

- When an application is submitted, it must be accompanied with a payment of a \$145.

Campbell: Heritage trees are not to be removed without first obtaining a tree removal permit.¹ For commercial property, a \$69 fee per tree must accompany the permit application. Requests which are filed in conjunction with a development application must have the same approval authority as established for the accompanying development application. Prior to the hearing before the approving authority, requests to remove heritage trees filed in conjunction with a development application shall be referred to the historic preservation board which makes a recommendation to the approval authority. A public hearing is required for all heritage tree removal requests.

Hillsborough: No clearing for construction of any improvement is permitted without the site plan having been approved by the city engineer. Trees are not to be destroyed or removed to make the construction easier. The trees may only be removed if the city engineer deems it necessary or desirable for the construction of improvements, economic enjoyment and the preservation of its natural setting. If a tree is damaged, the owner must restore the tree to its former condition, or if destroyed, must replace the tree within one year after a determination that the tree cannot be restored to its original condition.

The City Attorney's office has made an inquiry about the cost of the permit, but we have not heard back from the city. We will be following up until the date of the meeting and

¹Per Campbell's Planning Department, there is only one tree in the City that is designated as a heritage tree.

if an answer is provided, we will direct that information to the Council at the meeting.

Burlingame: A permit must be obtained to remove trees for development. A site plan must be submitted showing the location of the buildings or structures or of proposed site disturbances and the location of all trees. The planning director must approve the removal of protected trees within the footprint of approved construction in the R-1 zone, which construction does not require a variance, conditional use permit or special permit.

The City Attorney's office has made an inquiry about the cost of the permit, but we have not heard back from the city. We will be following up until the date of the meeting and if an answer is provided, we will direct that information to the Council at the meeting.

Los Gatos: A tree survey must be conducted prior to submittal of a development application proposing the removal of protected trees. A fee of \$100 for one tree and \$50 for each additional tree to be removed must accompany the application. If required, a security guarantee can be required. The applicant must post cash, bond or other security in the amount of \$5,000 for each tree required to be preserved, or \$25,000, whichever is less. The payment is retained for 1 year and will be forfeited in an amount equal to \$5,000 per tree as civil penalty if trees required to be preserved are removed, destroyed or severely damaged.

Ordinances Containing General Tree Removal Fees, Whether or Not in Conjunction with Development

Tiburon, Calabasas, Mountain View, Danville, San Carlos, Atherton, Los Altos, Redwood City, San Mateo and Menlo Park have various mitigation measures for protected tree removal. They include requirements for a permit to remove any protected or heritage tree whether or not in conjunction with development; a deposit with the city in case further damage occurs to other trees on the property; a 3 to 1 replacement for removed trees either onsite or off; payment of an in lieu fee equal to the cost of a 24" boxed tree of the same species, delivered and installed; a limit on the number of trees that will be allowed to be removed in a single year and/or planting of trees in a number equivalent to the diameter of the trees removed.

Fiscal Impact

The fiscal impact of the proposed ordinance amendment is difficult to calculate with any certainty because it would be driven by applicants proposing removal of trees to facilitate their own development.

Recommendation

Staff recommends that the City Council give direction on language to be drafted for an amendment to the tree ordinance to include a permit process for removal of protected trees and payment of a permit fee equal to the value of the tree authorized for removal.

Alternatives

1. Take no action at this time.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Attachments

1. Belmont Municipal Code Chapter 25

Respectfully submitted,

JEAN B. SAVAREE
City Attorney